

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 1008 of 2016 (O&M)

Date of decision : 13.11.2017

Mahender and others

.. Petitioners

versus

State of Haryana and others

.. Respondents

Coram: **Hon'ble Mr. Justice Rajesh Bindal.**
 Hon'ble Mr. Justice Gurvinder Singh Gill.

Present: Mr. Ajit Malik, Advocate, for the petitioners.

Mr. Ankur Mittal, Additional Advocate General, Haryana,
Mr. Shivendra Swaroop and Mr. Manoj Dhankhar, Assistant
Advocate Generals, Haryana.

Rajesh Bindal, J.

Claim made by the petitioners is that acquisition of land in question has lapsed, in view of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “the 2013 Act”), as neither the possession of the acquired land has been taken nor the compensation thereof has been paid.

Learned counsel for the petitioners submitted that notifications under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short “the 1894 Act”), were issued on 12.9.2001 and 1.3.2002, respectively. He submitted that the petitioners are in actual cultivating and physical possession of the acquired land. To show their possession, the petitioners

have placed on record *khasra girdawari* for the year 2014-15. They had filed objections under Section 18 of the 1894 Act and have also received enhanced compensation. However, they will return the compensation with interest to the State.

Learned counsel for the State submitted that the notification under Section 4 of the 1894 Act was issued on 12.9.2001, whereby the land measuring 600.12 acres pertaining to the revenue estates of village Taraf Afgan, Kheri Nangal, Risalu and Sewah, Tehsil and District Panipat was notified. Vide notification issued under Section 6 of the 1894 Act dated 1.3.2002, 586.27 acres of land was notified for the acquisition. The Land Acquisition Collector vide award dated 11.4.2002 finally announced award for 577.09 acres of land. For the rest of the land, though notification under Section 6 of the 1894 Act was issued, but no award was announced. The total amount of compensation determined by the Collector was ₹ 28,79,28,413/-, out of which the landowners have received a sum of ₹ 25,35,12,067/- in total. Only a sum of ₹ 3,44,16,346/- has been left to be paid as compensation to the landowners, whose land was acquired. It comes out to 12% of the total amount of compensation determined by the Collector. Remaining amount of compensation is lying deposited in the account with the Land Acquisition Collector. The award was passed way back on 11.4.2002. The area has already been developed. Out of the land owned by the petitioners, plot no. 570 to 582 have already been allotted, though construction is yet to be raised by the allottees. 95% development work has been completed.

Learned counsel for the State further submitted that the objections filed by the petitioners under Section 18 of the 1894 Act were

decided by the learned Reference Court way back in the year 2004 and even the appeals filed by them before this Court were also decided. The enhanced compensation has also been received by the petitioners.

After hearing learned counsel for the parties, we do not find any merit in the present writ petition. It is not in dispute that the compensation for the acquired land, as determined by the Collector, was received by the petitioners. Immediately thereafter, they filed objections under Section 18 of the 1894 Act, which were decided by the learned Reference Court vide award dated 30.10.2004. Even the enhanced compensation as determined by the learned Reference Court was also received by the petitioners.

To claim possession of the land, the petitioners have placed on record the *khasra girdawari* of the year 2014-15, which may not be of any help to the petitioners as they have not shown that they had been in possession of the land throughout. The development work in the area is complete. Even the plots have been carved out and the possession had been taken by the respondents and plot nos. 570 to 582 have been allotted by HUDA from the acquired land earlier owned by the petitioners, though the allottees are yet to raise construction. Even as per the *khasra girdawari* attached by the petitioners, some part of the land was lying vacant or it was shown as *banjar kadim* .

Further even the photographs attached by the petitioners clearly establish that there are industrial units around with infrastructure provided. How a patwari could record khasra numbers is quite strange. The petitioners, if had sown any crop on any part of land, the same had been done by encroaching upon the acquired land of the State, which will not be

of any help to the petitioners to claim that they are in possession of the land and the acquisition has lapsed.

For the reasons mentioned above, we do not find any merit in the present writ petition. The same is accordingly dismissed.

(Rajesh Bindal)
Judge

13.11.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No